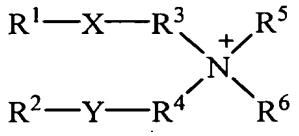
IN THE CLAIMS

Please amend the claims as follows:

Claim 1 (currently amended): A softener composition comprising:

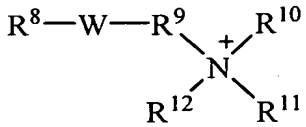
(a) a quaternary ammonium compound represented by the formula (1):



Z^- (1)

wherein R^1 and R^2 independently represent a C_{12-22} alkyl or alkenyl group, X and Y are independently –COO-, –$CONR^7$–, ~~–OCO– or –NR^7CO–~~, provided that at least one of X and Y is –COO– ~~or –OCO–~~, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, R^3 and R^4 independently represent a C_{1-5} alkylene group, R^5 and R^6 represent a C_{1-3} alkyl or hydroxyalkyl group or R^1–X–R^3– and Z^- is an anionic group,

(b) a quaternary ammonium compound represented by the formula (2):

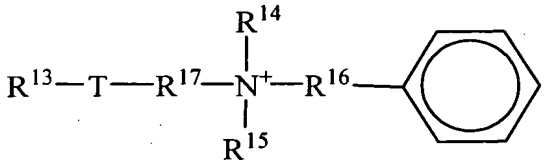


Z^- (2)

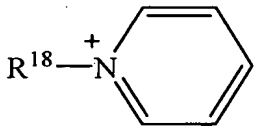
wherein R^8 represents a C_{12-22} alkyl or alkenyl group, W is a group selected from –COO–, and –$CONR^7$–, ~~–OCO– and –NR^7CO–~~, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, R^9 represents a C_{1-5} alkylene group, R^{10} and R^{11} represent a C_{1-3} alkyl or hydroxyalkyl group, R^{12} represents a C_{1-3} alkyl group or –R^{26}–OH, R^{26} is a C_{1-5} alkylene group and Z^- is an anionic group, and

a compound selected from the following component (c) or (d):

(c) 0.1 to 15% by weight of a compound represented by formula (3) and/or formula (4):

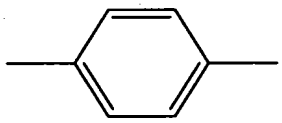


(3)



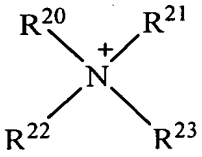
(4)

wherein R^{13} and R^{18} independently represent a C_{5-19} alkyl or alkenyl group, R^{14} and R^{15} independently represent a C_{1-3} alkyl or hydroxyalkyl group, and T is –COO–, –OCO–, –CONH–, –NHCO–,



or a linkage, R^{16} represents a C_{1-3} alkylene group, R^{17} represents a C_{1-6} alkylene group or $-(O-R^{19})_n-$, R^{19} is ethylene group or propylene group and n is a number of 1 to 10 and W^- is an anionic group, and

(d) 0.01 to 15% by weight of a compound represented by formula (5):



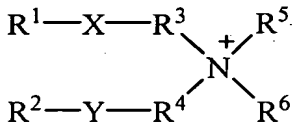
(5)

wherein 2 or 3 groups out of R^{20}, R^{21}, R^{22} and R^{23} represent a C_{8-12} alkyl group, the remainder of them represent a C_{1-3} alkyl group, a C_{1-3} hydroxyalkyl group or a C_{7-15} arylalkyl group and Z^- is an anionic group.

Claim 2 (Original): The softener composition according to claim 1, which further comprises (e) a nonionic surfactant.

Claim 3 (previously presented): A softener composition comprising:

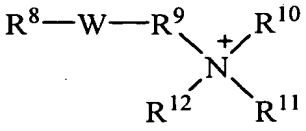
(a) a quaternary ammonium compound represented by the formula (1):



Z^- (1)

wherein R^1 and R^2 independently represent a C_{12-22} alkyl or alkenyl group, X and Y are independently –COO-, –CONR^7–, –OCO– or –NR^{7}CO–, provided that at least one of X and Y is –COO– or –OCO–, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, R^3 and R^4 independently represent a C_{1-5} alkylene group, R^5 and R^6 represent a C_{1-3} alkyl or hydroxyalkyl group or R^1–X–R^3– and Z^- is an anionic group,

(b) a quaternary ammonium compound represented by the formula (2):



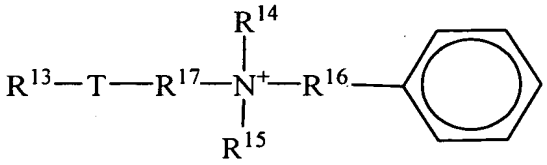
Z^- (2)

wherein R^8 represents a C_{12-22} alkyl or alkenyl group, W is a group selected from –COO–, –CONR^7–, –OCO– and NR^{7}CO–, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, -R^9 represents a C_{1-5} alkylene group, R^{10} and R^{11} represent a C_{1-3} alkyl or

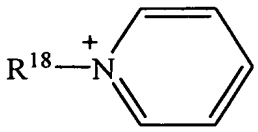
hydroxyalkyl group, R^{12} represents a C_{1-3} alkyl group or $-R^{26}-OH$, R^{26} is a C_{1-5} alkylene group and Z^- is an anionic group, and

a compound selected from the following component (c) or (d):

(c) 0.1 to 15% by weight of a compound represented by formula (3) and/or formula (4):

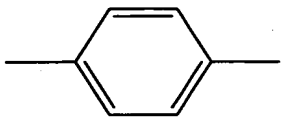


W^- (3)



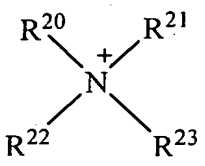
W^- (4)

wherein R^{13} and R^{18} independently represent a C_{5-19} alkyl or alkenyl group, R^{14} and R^{15} independently represent a C_{1-3} alkyl or hydroxyalkyl group, and T is –COO–, –OCO–, –CONH–, –NHCO–,



or a linkage, R^{16} represents a C_{1-3} alkylene group, R^{17} represents a C_{1-6} alkylene group or $-(O-R^{19})_n-$, R^{19} is ethylene group or propylene group and n is a number of 1 to 10 and W^- is an anionic group, and

(d) 0.01 to 15% by weight of a compound represented by formula (5):



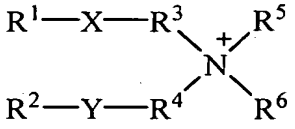
W^- (5)

wherein 2 or 3 groups out of R^{20}, R^{21}, R^{22} and R^{23} represent a C_{8-12} alkyl group, the remainder of them represent a C_{1-3} alkyl group, a C_{1-3} hydroxyalkyl group or a C_{7-15} arylalkyl group and Z^- is an anionic group,

which further comprises 0.1 to 5% by weight of (f) a C_{8-22} fatty acid or a salt thereof.

Claim 4 (previously presented): A softener composition comprising:

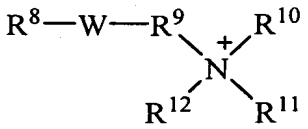
(a) a quaternary ammonium compound represented by the formula (1):



Z^- (1)

wherein R^1 and R^2 independently represent a C_{12-22} alkyl or alkenyl group, X and Y are independently –COO-, –CONR^7–, –OCO– or –NR^{7}CO–, provided that at least one of X and Y is –COO– or –OCO–, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, R^3 and R^4 independently represent a C_{1-5} alkylene group, R^5 and R^6 represent a C_{1-3} alkyl or hydroxyalkyl group or R^1–X–R^3– and Z^- is an anionic group,

(b) a quaternary ammonium compound represented by the formula (2):



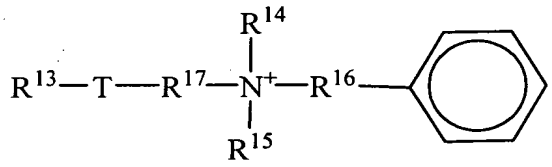
Z^- (2)

wherein R^8 represents a C_{12-22} alkyl or alkenyl group, W is a group selected from –COO–,

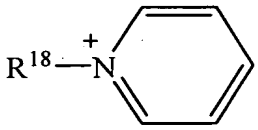
–$CONR^7$–, –OCO– and NR^7CO–, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, -R^9 represents a C_{1-5} alkylene group, R^{10} and R^{11} represent a C_{1-3} alkyl or hydroxyalkyl group, R^{12} represents a C_{1-3} alkyl group or –R^{26}–OH, R^{26} is a C_{1-5} alkylene group and Z^- is an anionic group, and

a compound selected from the following component (c) or (d):

(c) 0.1 to 15% by weight of a compound represented by formula (3) and/or formula (4):

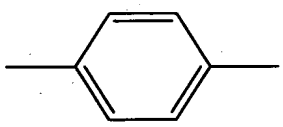


(3)



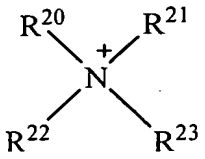
(4)

wherein R^{13} and R^{18} independently represent a C_{5-19} alkyl or alkenyl group, R^{14} and R^{15} independently represent a C_{1-3} alkyl or hydroxyalkyl group, and T is –COO–, –OCO–, –CONH–, –NHCO–,



or a linkage, R^{16} represents a C_{1-3} alkylene group, R^{17} represents a C_{1-6} alkylene group or –$(O–R^{19})_n$–, R^{19} is ethylene group or propylene group and n is a number of 1 to 10 and W^- is an anionic group, and

(d) 0.01 to 15% by weight of a compound represented by formula (5):



W^- (5)

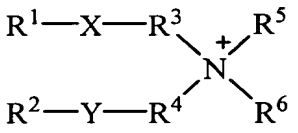
wherein 2 or 3 groups out of R^{20}, R^{21}, R^{22} and R^{23} represent a C_{8-12} alkyl group, the remainder of them represent a C_{1-3} alkyl group, a C_{1-3} hydroxyalkyl group or a C_{7-15} arylalkyl group and Z^- is an anionic group,

which further comprises (e) a nonionic surfactant and 0.1 to 5% by weight of (f) a C_{8-22} fatty acid or salt thereof.

Claim 5 (previously presented) The softener composition of claim 1, where R^7 is a hydrogen atom.

Claim 6 (currently amended) A softener composition comprising:

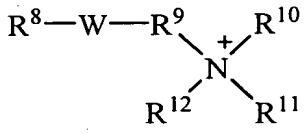
(a) a quaternary ammonium compound represented by the formula (1):



Z^- (1)

wherein R^1 and R^2 independently represent a C_{12-22} alkyl or alkenyl group, X and Y are independently –COO-, –$CONR^7$–, ~~–OCO– or –NR^7CO–~~, provided that at least one of X and Y is ~~–COO– or –OCO–~~, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, R^3 and R^4 independently represent a C_{1-5} alkylene group, R^5 and R^6 represent a C_{1-3} alkyl or hydroxyalkyl group or R^1–X–R^3– and Z^- is an anionic group,

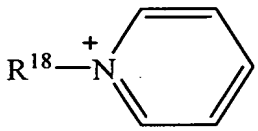
(b) a quaternary ammonium compound represented by the formula (2):



(2)

wherein R^8 represents a C_{12-22} alkyl or alkenyl group, W is a group selected from –COO–, and –$CONR^7$–, ~~–OCO– and –NR^7CO–~~, R^7 represents a hydrogen atom or a C_{1-3} alkyl or hydroxyalkyl group, -R^9 represents a C_{1-5} alkylene group, R^{10} and R^{11} represent a C_{1-3} alkyl or hydroxyalkyl group, R^{12} represents a C_{1-3} alkyl group or –R^{26}–OH, R^{26} is a C_{1-5} alkylene group and Z^- is an anionic group, and

(c) 0.1 to 15% by weight of a compound represented by formula (4):



(4)

wherein R^{18} independently represent a C_{5-19} alkyl or alkenyl group,and W^- is an anionic group.

Claim 7 (previously presented) The softener composition of claim 3, which further comprises (e) a nonionic surfactant.

Claim 8 (currently amended) The softener composition of claim 1, which comprises 3-50 % by weight of component (a) ~~7~~.

Claim 9 (previously presented) The softener composition of claim 1, which comprises 0.5 to 10 % by weight of component (b).

Claim 10 (previously presented) The softener composition of claim 1, wherein a weight ratio of component (a)/component (b) is 80/20 to 99/1.

Claim 11 (currently amended) The softener composition of claim 1, comprising component (c) in an amount of 0.1 to 15% by weight.~~,~~

Claim 12 (previously presented) The softener composition of claim 1, comprising component (c) in a weight ratio of(c)/(a) of 1/30 to 1/1.

Claim 13 (previously presented) The softener composition of claim 1, comprising component (d) in an amount of 0.1 to 15% by weight.

Claim 14 (previously presented) The softener composition of claim 1, comprising component (d) in a weight of (a)/(d) of 50/1 to 2/1.

Claim 15 (previously presented) The softener composition of claim 1, comprising 40 to 90 % by weight of water.

Claim 16 (previously presented) The softener composition of claim 1, having a pH value of 1 to 6.

Claim 17 (previously presented) The softener composition of claim 2, comprising 0.5 to 10% by weight of said nonionic surfactant.

Claim 18 (currently amended) The softener composition of claim 1, further comprising 0 to 1,000 ppm of an inorganic salt.~~.~~

Claim 19 (previously presented) The softener composition of claim 1, further comprising a solvent selected from the group consisting of ethanol, isopropanol, glycerine, ethylene glycol, propylene glycol, diethylene glycol, dipropylene glycol, polyoxyethyene phenyl ether and a mixture thereof.

Claim 20 (currently amended) The softener composition of claim 19, wherein said solvent is present in an amount ~~of 0~~ up to 20 % by weight.

SUPPORT FOR THE AMENDMENT

Support for the amendment to claims 1 and 6 is found in claims 1, and 6 as originally presented. No new matter would be added to this application by entry of this amendment. No new issues would be raised before the examiner, as applicants are merely amending the claims to a scope suggested by the examiner. Entry of applicants' amendment and full consideration thereof at this stage of prosecution is respectfully requested.

Upon entry of this amendment, claims 1-20 will remain active in this application.

REQUEST FOR RECONSIDERATION

The present invention is directed to a softener composition.

Applicants wish to thank examiner Hardee for the helpful and courteous discussion held with applicants' U.S. representatives on January 5, 2004. At that time, applicants' U.S. representative argued that unexpected improvements in performance were observed through the combination of quaternary ammonium compounds of formula (1) and formula (2) and that such a result was nowhere disclosed or suggested in the cited prior art of record. The examiner suggested claim language believed to more commensurate in scope with applicants' showing. The following is intended to expand upon the discussion with the Examiner.

Applicants would also like to thank examiner Hardee for indicating that claims 3, 4 and 7 are allowed.

Quaternary ammonium salt compounds have been used in fabric softener compositions. Performance in terms of softening properties and antimicrobial effects have not been entirely satisfactory. Accordingly, compositions demonstrating good softening effects and antimicrobial performance, are sought.

The present invention addresses this problem by providing a softener composition comprising quaternary ammonium compounds of formula (1) and (2) in conjunction with a

component (c) or (d), which exhibit good softness and good odor suppressing action. Such a composition is nowhere disclosed or suggested in the cited prior art of record.

As evidence of improved softness and odor control observed by the combination of quaternary ammonium compounds of formula (1) and (2), applicants have previously submitted the Declaration of Ms. Noriko Yamaguchi, a named inventor of the above-identified application. Ms. Yamaguchi has compared the odor and softening performance of inventive compositions containing a mixture of quaternary ammonium compounds of formula (1) and (2) as compared with compositions containing the same weight percent of only a quaternary ammonium compound of formula (1). For the Examiner's convenience, the data is reproduced below:

			Tested Products			
			composition 1	composition 2	composition 3	composition 4
			Invention product 4 of Table 1	Comparative product 7	Invention product 13 of Table 4	Comparative product 5
Softener Composition	Component (wt%)	(a–3)	15	16.5		
		(a–6)			12	14
		(b–2)	1.5		2	
		(c–1)	5	5		
		(d–1)			5	5
		(e–1)	2	2		
		(e–2)			5	5
		(f–1)	1	1		
		(f–4)			2	2
		(g–1)	1	1		
		(g–2)	100 ppm	100 ppm	100 ppm	100 ppm
		(g–3)	3	3		
		(h–1)	10 ppm	10 ppm	10 ppm	10 ppm
		(h–2)	50 ppm	50 ppm		
		(h–3)	0.1	0.3	0.3	0.3
		deionized water	balance	balance	balance	balance
		Total	100	100	100	100
	pH (20°C)		3.5	3.5	2.5	2.5
Smell	Clothes after drying		O	Control	O	Control
	Clothes after worn		O	Control	O	Control
Softening Performance			O	Control	O	Control

The data demonstrates, as compared with compositions containing only the quaternary ammonium compound of formula (1), that improved odor after drying and after

being worn, as well as improved softening performance, results from compositions in which **both** quaternary ammonium compounds of formula (1) and (2) are present. As there is no suggestion in the prior art of record for improved odor and softness by a combination of quaternary ammonium compounds, as claimed, the present invention is clearly not obvious over the cited references.

The rejection of Claims 1, 2, 5, 6 and 8-20 under 35 U.S.C. § 103(a) over Rusche et al. (U.S. 5,686,376) is respectfully traversed.

Rusche simply discloses a method for improving the color of dyed fabrics for the whiteness of white fabrics which have been laundered in a conventional manner in water which contains copper or nickel ions, by rinsing the fabrics in water which contains a chelating agent for copper and/or nickel (column 2, lines 38-43). Fabric softening compositions are generally described at column 9, beginning at line 37, however, fails to specifically describe the softener composition comprising a combination of **both** quaternary ammonium compounds formula (1) and formula (2) as claimed. Applicants have provided a direct comparison of the performance of a softener composition according to the present invention indicating both quaternary ammonium compound of formula (1) and (2), as compared with an equivalent amount of the quaternary ammonium compound of formula (1). Such performance clearly demonstrates the improved performance resulting from the combined use of quaternary ammonium compounds of formula (1) and formula (2).

Since the cited prior art of record nowhere discloses or suggests the combination of quaternary ammonium compounds of formula (1) and formula (2), and applicants have demonstrated an improvement in performance when the two compounds are present as compared with use of the single compound, the present invention is clearly not obvious from the cited prior art of record and accordingly withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

The objection to claim 20 has been obviated by appropriate amendment. Claim 20 ahs been amended to recite an amount of solvent "up to 20 % by weight", consistent with the dependence on claim 19 which recited the positive presence of a solvent.

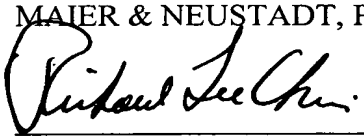
The rejection of claim 8 under 35 U.S.C. § 112 second paragraph has been obviated by appropriate amendment.

Claim 8 has been amended to merely refer to "component (a)." This is not a narrowing amendment made for the purposes of patentability. In addition a period has been added to claims 8 and 11 and deleted from claim 18. In view of applicants' amendment, withdrawal of this ground of rejection is respectfully requested.

Applicants submit that this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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